

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ERNEST HALL,	:	
	:	NO. 1:08-CV-00517
Plaintiff,	:	
	:	
v.	:	OPINION AND ORDER
	:	
	:	
NURSE TERRY, et al.,	:	
	:	
Defendants.	:	

This matter is before the Court on the Magistrate Judge's February 6, 2009 Report and Recommendation (doc. 27). Plaintiff has filed no objection. For the reasons indicated herein the Court ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation and GRANTS Defendants' Motion to Dismiss (doc. 24).

Plaintiff is a prisoner in the custody of the Ohio Department of Rehabilitation and Correction, incarcerated at Southern Ohio Correctional Facility in Lucasville, Ohio. In his Complaint, Plaintiff alleges violations of his civil rights by Nurse Terry, Nurse V., Nurse Newsom, and Officer Taylor (doc. 1).

On January 25, 2009, the Court ordered Plaintiff to show cause as to why Defendants' Motion to Dismiss should not be granted, as Plaintiff failed to respond to such motion (doc. 25). Plaintiff never responded to the Court's Order. In the instant Report and Recommendation, the Magistrate Judge found that Plaintiff's failure to respond to the Order to Show Cause warrants a dismissal of this action for lack of prosecution and failure to

comply with an order of the Court (doc. 27). The Magistrate Judge also found that dismissal warranted on the merits as the Plaintiff failed to comply with service of process requirements pursuant to Fed. R. Civ. P. 4(e) and (j) (Id.). Finally the Magistrate Judge found that dismissal of this action warranted due to the failure of the Plaintiff to adhere to Fed. R. Civ. P. 4(m) by failing to serve a copy of the summons and the Complaint on the Defendants within 120 days after filing the Complaint (Id.).

Plaintiff was served with the Report and Recommendation and were therefore afforded proper notice of the Magistrate Judge's Report and Recommendation required by 28 U.S.C. § 636(b)(1)(C), including that failure to file timely objections to the Report and Recommendation would result in a waiver of further appeal. See United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981). Plaintiff did not file any objections thereto within the ten days provided for by Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1)(C).

Having reviewed this matter, the Court finds the Magistrate Judge's Report and Recommendation well-taken in all respects. Plaintiff, by failing to respond to Defendants' Motion and to the Court's Order to Show Cause, has demonstrated a failure to prosecute this matter. Accordingly, the Court ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation in its entirety (doc. 27), GRANTS Defendants' Motion to Dismiss the Plaintiff's Complaint (Doc. 24), DISMISSES this case without

prejudice, and DIRECTS the Clerk close this case on the Court's docket.

SO ORDERED.

Dated: _May 19, 2009

/s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge